



DEPARTMENT OF EDUCATION

34 CFR Chapter II

[Docket ID ED-2021-OESE-0045]

Final Priorities--Effective Educator Development Division

AGENCY: Office of Elementary and Secondary Education,
Department of Education.

ACTION: Final priorities.

SUMMARY: The Department of Education (Department)
announces priorities for the following programs of the
Effective Educator Development Division (EED): Teacher and
School Leader Incentive Grants (TSL), Assistance Listing
Number (ALN) 84.374A; Supporting Effective Educator
Development (SEED), ALN 84.423A; and Teacher Quality
Partnership (TQP), ALN 84.336S. We may use these
priorities for competitions in fiscal year (FY) 2021 and
later years. We propose these priorities to focus on
educator development, leadership, and diversity in the
various EED programs in order to improve the quality of
teaching and school leadership.

DATES: These priorities are effective [INSERT DATE 30 DAYS
AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

Purpose of Program: This notice identifies final priorities for use in three Department programs: TSL, SEED, and TQP. The purpose of TSL is to assist States, local educational agencies, and nonprofit organizations to develop, implement, improve, or expand comprehensive performance-based compensation systems (PBCS) or human capital management systems (HCMS) for teachers, principals, and other school leaders (educators) (especially educators in high-need schools who raise student academic achievement and close the achievement gap between high- and low-performing students). In addition, a portion of TSL funds may be used to study the effectiveness, fairness, quality, consistency, and reliability of such systems. The SEED program provides funding to increase the number of highly effective educators by supporting the implementation of evidence-based practices that prepare, develop, or enhance the skills of educators. SEED grants allow eligible entities to develop, expand, and evaluate practices that can serve as models to be sustained and disseminated. The purposes of the TQP program are to improve student achievement; improve the quality of prospective and new teachers by improving the preparation of prospective

teachers and enhancing professional development activities for new teachers; hold teacher preparation programs at institutions of higher education accountable for preparing teachers who meet applicable State certification and licensure requirements; and recruit highly qualified individuals, including minorities and individuals from other occupations, into the teaching profession.

Program Authority: 20 U.S.C. 1221e-3. TSL: Sections 2211-2213 of the Elementary and Secondary Education Act of 1965, as amended (ESEA), 20 U.S.C. 6631-6633. SEED: Section 2242 of the ESEA, 20 U.S.C. 6672. TQP: Sections 200-204 of the Higher Education Act of 1965, as amended, 20 U.S.C. 1021-1022c.

We published a notice of proposed priorities (NPP) for these programs in the *Federal Register* on April 20, 2021 (86 FR 20471). The NPP contained background information and our reasons for proposing the particular priorities.

Except for minor editorial and technical revisions, there are no differences between the proposed priorities and these final priorities.

Public Comment: In response to our invitation in the NPP, we received 31 comments, 23 of which were relevant to the proposed priorities and 8 of which were not relevant to the proposed priorities and were not considered in the analysis. Of the 23 comments addressing the proposed priorities, 7 expressed support for the proposed priorities

but either offered no specific recommendations to revise them or offered broad recommendations for strengthening the educator workforce that were outside the scope of these proposed priorities. The remaining 16 comments either expressed disagreement or broadly agreed while offering suggestions to strengthen the proposed priorities.

Responses to these comments are found in the Analysis of the Comments and Changes below.

Analysis of the Comments and Changes: An analysis of the comments and of any changes to the proposed priorities follows. Generally, we do not address technical and other minor changes, or suggested changes the law does not authorize us to make under the applicable statutory authority. In addition, we do not address general comments that raise concerns not directly related to the NPP.

Comment: In response to Priority 1--Supporting Educators and Their Professional Growth, one commenter suggested that encouraging educators to pursue advanced credentials, such as Master's degrees, may not necessarily lead to improvements in educator effectiveness and may produce unintended incentives for educators to leave the profession.

Discussion: We appreciate the comment regarding the potential limited impact on educator effectiveness and potential disincentives to educator retention that could result from encouraging teachers to pursue advanced

credentials. Creating or enhancing professional growth opportunities for educators is a chief component of the Administration's approach to ensuring that students from low-income backgrounds, students of color, students with disabilities, and other historically underserved students have equal access to qualified, experienced, and effective educators. The concerns outlined by the commenter are precisely the reasons why this priority promotes a holistic approach to supporting teachers and school leaders. The priority not only targets increased numbers of teachers with advanced credentials, which, in addition to a Master's Degree, may include National Board Certification or an additional credential, such as to teach English learners or students with special needs. It also promotes establishment of career ladders, improved pay systems, targeted professional development and a range of other strategies aimed at improving the educator workforce. We think that advanced credential attainment is an important part of this holistic strategy. Thus, we do not think that it is necessary to revise the proposed priorities to address this specific need.

Changes: None.

Comment: In response to Priority 1--Supporting Educators and Their Professional Growth, one commenter recommended that we focus on raising teacher salaries to be

commensurate with that of other professionals whose roles require specialized training.

Discussion: We appreciate the comment regarding economic concerns facing educators and low teacher salaries may pose potential barriers to diverse candidates entering the educator profession. While we agree with the commenters on the need for educators' salaries to reflect the significance of their roles, we note that these priorities focus on preparing educators with the knowledge, skills, and supports needed to support the personal and academic growth of all students. We note one of the programs intended for potential use of these priorities, TSL, provides applicants with flexibility to propose innovative interventions aimed at enhancing educators' compensation based on their performance. For this reason, we do not think that it is necessary to revise the proposed priorities to address teachers' salaries.

Changes: None.

Comment: In response to Priority 2—Increasing Educator Diversity, one commenter cautioned that factors such as the wealth gap and income inequality along racial lines may lead to difficulty hiring diverse educators.

Discussion: We appreciate the comment regarding economic concerns facing educators and how they may pose potential barriers to diverse candidates entering the educator profession. We note that this priority has been

established, due in part to the barriers to achieving a diverse educator workforce the commenter identified. We also note that this priority seeks to promote a holistic approach to attracting and retaining teachers and school leaders and we encourage districts and localities to leverage the opportunities afforded under this priority to design evidence-based and promising approaches to attracting diverse educator candidates. For this reason, we do not think that it is necessary to revise the proposed priority.

Changes: None.

Comment: Multiple commenters expressed support for both priorities, while suggesting a range of specific revisions. One commenter recommended changes to emphasize the importance of antibias and antiracist education to our existing workforce. On the topic of cultural responsiveness, multiple commenters cited research emphasizing the importance of culturally responsive school leadership and recommended specific revisions to highlight the importance of culturally responsive and culturally sustaining teaching practices. Another commenter recommended changes to both priorities to promote development and diversification of school leaders. With regard to professional development and professional learning of educators, one commenter recommended that the

Department focus on learning communities, leadership, resources, data, learning designs, implementation, and outcomes. Another commenter noted the significant role of traditional educator preparation programs in advancing the goals of these priorities, while another commenter, focusing on the SEED program, recommended that we revise the priorities to more clearly highlight the role of high-quality, non-traditional educator preparation programs. A separate commenter recommended that we revise the priorities to emphasize the long-term sustainability of project activities implemented under these priorities. Additionally, one commenter stressed the importance of prioritizing grow-your-own recruitment approaches.

Discussion: We appreciate each commenter's suggestions and recognize the significance of the specific areas they recommend be emphasized in the proposed priorities. We note that several of these suggested items, such as "grow your own" programs, diversification of school leaders, and placing an emphasis on data and outcomes, are directly addressed in the priorities. We also acknowledge and appreciate the other suggestions made by commenters that highlight specific strategies or activities that could be specified in the priority. We note that these priorities are intended for use in discretionary grant programs and are designed to offer districts and localities flexibility to shape their local instructional programming around

innovative initiatives that meet their distinct needs. We think that the priorities, as written, provide an equal measure of specificity and flexibility for prospective applicants to address the goals of supporting educators and their professional growth, as well as increasing educator diversity. Finally, we note that these suggested activities are already allowable under these programs, in addition to other programs funded by the Department, and are reflective of the Department's overall vision for the improvement of the educator workforce.

Upon further review, the Department believes that additional clarity would be helpful for applicants with respect to their plans to implement educator diversity practices. We are revising Priority 2 to combine and clarify the activities in proposed paragraphs (a) and (h).

Changes: In Priority 2, we have removed proposed paragraphs (a) and (h) and added a new paragraph (g) that encompasses activities related to data systems, timelines, and action plans for promoting educator and school leader diversity.

Comment: Multiple commenters expressed support for the proposed priorities but recommended we add language that specifically references sexual orientation, gender identity, and gender expression to add clarity around what is meant by the term "diversity."

Discussion: We appreciate the importance of being clear about the meaning of "diversity." The Department has chosen to use the term "diversity" to describe and embrace all students and educators without exception. Thus, we do not think that it is necessary to revise the priorities in response to these specific recommendations.

Changes: None.

FINAL PRIORITIES:

Priority 1--Supporting Educators and Their Professional Growth.

Projects that are designed to increase the number and percentage of well-prepared, experienced, effective, and diverse educators--which may include one or more of the following: teachers, principals, paraprofessionals, or other school leaders as defined in section 8101(44) of the ESEA--through evidence-based strategies (as defined in 34 CFR 77.1 or the ESEA) incorporating one or more of the following:

(a) Adopting, implementing, or expanding efforts to recruit, select, prepare, support, and develop talented, diverse individuals to serve as mentors, instructional coaches, principals, or school leaders in high-need schools (as may be defined in the program's authorizing statute or regulations) who have the knowledge and skills to significantly improve instruction.

(b) Implementing practices or strategies that support high-need schools (as may be defined in the program's authorizing statute or regulations) in recruiting, preparing, hiring, supporting, developing, and retaining qualified, experienced, effective, diverse educators.

(c) Increasing the number of teachers with State or national advanced educator certification or certification in a teacher shortage area, as determined by the Secretary, such as special education or bilingual education.

(d) Providing high-quality professional development opportunities to all educators in high-need schools (as may be defined in the program's authorizing statute or regulations) on meeting the needs of diverse learners, including students with disabilities and English learners.

Proposed Priority 2--Increasing Educator Diversity.

Under this priority, applicants must develop projects that are designed to improve the recruitment, outreach, preparation, support, development, and retention of a diverse educator workforce through adopting, implementing, or expanding one or more of the following:

(a) High-quality, comprehensive teacher preparation programs that have a track record of attracting, supporting, graduating, and placing underrepresented teacher candidates, and that include one year of high-quality clinical experiences (prior to becoming the teacher

of record) in high-need schools (as may be defined in the program's authorizing statute or regulations).

(b) High-quality, comprehensive teacher preparation programs in Historically Black Colleges and Universities (eligible institutions under part B of title III and subpart 4 of part A title VII of the HEA), Hispanic Serving Institutions (eligible institutions under section 502 of the HEA), Tribal Colleges and Universities (eligible institutions under section 316 of the HEA), or other Minority Serving Institutions (eligible institutions under title III and title V of the HEA) that include one year of high-quality clinical experiences (prior to becoming the teacher of record) in high-need schools (as may be defined in the program's authorizing statute or regulations) and that incorporate best practices for attracting, supporting, graduating, and placing underrepresented teacher candidates.

(c) Reforms to teacher preparation programs to improve the diversity of teacher candidates, including changes to ensure underrepresented teacher candidates are fully represented in program admission, completion, placement, and retention as educators.

(d) Educator candidate support and preparation strategies and practices focused on underrepresented teacher candidates, and which may include "grow your own programs," which typically recruit middle or high school

students, paraprofessionals, or other school staff and provide them with clear pathways and intensive support to enter into the teaching profession.

(e) Professional growth and leadership opportunities for diverse educators, including opportunities to influence school, district, or State policies and practices in order to improve educator diversity.

(f) High-quality professional development on addressing bias in instructional practice and fostering an inclusive, equitable, and supportive workplace and school climate for educators.

(g) Data systems, timelines, and action plans for promoting inclusive and bias-free human resources practices that promote and support development of educator and school leader diversity.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the *Federal Register*. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an

application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria subject to meeting applicable rulemaking requirements.

Note: This document does not solicit applications. In any year in which we choose to use these priorities, we invite applications through a notice in the *Federal Register*.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Office of Management and Budget (OMB) must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to

result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned

determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that

might result from technological innovation or anticipated behavioral changes.”

We are issuing the final priorities only on a reasoned determination that their benefits will justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on an analysis of anticipated costs and benefits, we believe that the final priorities are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department’s programs and activities.

Regulatory Flexibility Act Certification:

The Secretary certifies that this regulatory action does not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define proprietary institutions as small businesses if they are independently

owned and operated, are not dominant in their field of operation, and have total annual revenue below \$7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

The small entities that this regulatory action will affect are school districts, nonprofit organizations, and for-profit organizations. Of the impacts we estimate accruing to grantees or eligible entities, all are voluntary and related mostly to an increase in the number of applications prepared and submitted annually for competitive grant competitions. Therefore, we do not believe that the priorities will significantly impact small entities beyond the potential for increasing the likelihood of their applying for, and receiving, competitive grants from the Department.

Paperwork Reduction Act of 1995: The priorities contain information collection requirements that are approved by OMB under OMB control number 1894-0006 and 1810-0758; the priorities do not affect the currently approved data collection.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to

foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance. This document provides early notification of our specific plans and actions for this program.

Accessible Format: On request to the program contact person listed under FOR FURTHER INFORMATION CONTACT, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

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Ian Rosenblum,
*Deputy Assistant Secretary for Policy
and Programs Delegated the Authority to
Perform the Functions and Duties of the
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